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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,510	11/20/2003	Anthony J. Muhich	2-5695-004	1250

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DES MOINES, IA 50309-4076

EXAMINER

THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/718,510

Applicant(s)

MUHICH, ANTHONY J.

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8-17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 8-17 is/are rejected.  
7) ☒ Claim(s) 9, 10 and 13-17 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11-20-03  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 8, line 6, the parentheticals are improper and should be removed. In line 10, "to said tree" should read --engageable with said tree--, as the tree has not been positively recited.

With respect to claim 12, line 5, there is no antecedent basis for "the top portion".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Richard #5,363,941. Richard discloses a tree stand comprised of seat support 32, 43, strapping mechanism 51, seat 40, pivoting platform 12, which is pivotally attached to 32 at bracket 34, support members 54, which are attached to the seat support and the platform, adjustable leveler mechanism 22, 58, and leveler locking mechanism 65, 66, 68.

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Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Grote #4,819,763.

Grote discloses a tree stand comprised of seat support assembly 60C, 210, 500, strapping mechanism assembly 400, 410, 550, seat 30, platform member 60A, which is attached to 60C at 170 and has foot supports as best seen in Figure 1, and lower leveler mechanism assembly 220, having independently adjustable left and right structural members as depicted in Figures 4 and 5, which can be locked/fixed in position.

Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Burgin #5,458,215.

Burgin discloses a tree stand comprised of a seat support, strapping mechanism, and seat, (all unnumbered), platform member 24, which is pivotally attached to the seat support, and lower leveler mechanism assembly 10, having independently adjustable left and right structural members 44 as depicted in Figure 2, which can be locked/fixed in position by means of a locking mechanism 48, 50, as best seen in Figure 3.

#### ***Allowable Subject Matter***

Claims 9 and 10, and 13-17 are objected to as being dependent upon rejected base claims 8 and 12, respectively, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The primary reason for the allowable subject matter of claim 9 is the inclusion of the platform pivotally attached to the bottom of the seat support and the leveler mechanism having telescopic sleeves and stanchions, the sleeves being attached to the seat support and the stanchions being independently adjustable with respect to the sleeves.

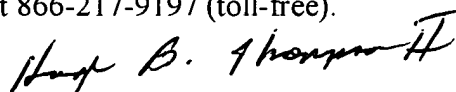
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For claim 13, it is the inclusion of support members attached to upper portions of the seat support, and an adjustable upper leveler mechanism attached to the seat support having a locking mechanism for locking the upper leveler mechanism in multiple positions with respect a tree or support to which the tree stand is attached. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

December 8, 2004